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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,739	12/18/2001	Michael D. Miller		9714

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EXAMINER

WATTS, DOUGLAS D

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



### **DETAILED ACTION**

The finality of the last Office action is hereby withdrawn. An action on the merits follows. Claims 1-7, 9-16 have been cancelled per the instructions of the communication of 8/15/05.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Gagnon et al. (D387,956). Applicant claims a fork with a handle with an enlarged end. Gagnon shows this in Fig 2. The inner tines are thin relative to the outer tines as claimed in the second paragraph of claim 8. In paragraph c applicant claims deformations of the handle shaft with enlarged flat surfaces. This feature of Gagnon is shown in Fig 4.

### ***Conclusion***

The remarks have been considered. The previous allowance of claim 8 is regretted. As pointed out above Gagnon appears to anticipate claim 8. The flat side portions is shown in the various figures.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas D. Watts whose telephone number is (571) 272-4515. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/31/05



**DOUGLAS D. WATTS  
PRIMARY EXAMINER**